



Billing Code: 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR part 52

[EPA-R09-OAR-2012-0244; FRL-9713-4]

Approval and Promulgation of Implementation Plans; State of Arizona; Prevention of Air Pollution Emergency Episodes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Arizona to address the requirements regarding air pollution emergency episodes in Clean Air Act (CAA or Act).

DATES: This final rule is effective on **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action, identified by Docket ID Number EPA-R09-OAR-2012-0244. The index to the docket for this action is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, Air Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, (415) 947-4152, *buss.jeffrey@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms “we,” “us,” and “our” refer to EPA.

TABLE OF CONTENTS:

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

I. Background

On April 12, 2012 (77 FR 21911), EPA proposed to approve a SIP revision submitted by the State of Arizona to address the requirements regarding air pollution emergency episodes in CAA section 110(a)(2)(G). Section 110(a)(2)(G) requires that each SIP provide for authority comparable to that in section 303 of the Act (“Emergency Powers”) and adequate contingency plans to implement such authority. EPA proposed to approve Arizona’s SIP revision as meeting the authority and contingency plans for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS).

The rationale supporting EPA's action, including the scope of infrastructure SIPs in general, is explained in the Notice of Proposed Rulemaking (NPR) and in the technical support document (TSD) for that action and will not be restated here. The TSD is available online at

<http://www.regulations.gov>, Docket ID number EPA–R09–OAR–2012–0244. No public comments were received on the NPR.

II. Final Action

EPA is approving Arizona’s SIP revision as meeting the authority and contingency plans for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards). The Arizona Emergency Episode Plan is substantively identical to the CAA section 110(a)(2)(G) rule currently approved into Arizona’s SIP (R9-3-219, “Air pollution emergency episodes”), which EPA approved in 1982 (47 FR 42572, September 28, 1982), with one exception which makes it more stringent than the SIP program. We determine that our approval of this submittal would comply with CAA section 110(l), because the SIP revision would not interfere with the ongoing process for ensuring that requirements for reasonable further progress (RFP) and attainment of the NAAQS are met, and the submitted SIP revision is more stringent than the rule previously approved into the SIP. We also determine that our approval of the submittal would comply with CAA section 193, to the extent it applies, because the SIP revision would ensure equivalent or greater emission reductions of ozone precursors compared to the SIP-approved rule. Therefore, EPA is removing the superseded Rule R9-3-219 from the SIP and approving Rule R18-2-220 and the “Procedures for Prevention of Emergency Episodes,” into the SIP.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely

approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does

not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 26, 2012

Jared Blumenfeld,
Regional Administrator,
Region IX

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 et seq.

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(54)(i)(F) and (c)(151) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(54) * * *

(i) * * *

* * * * *

(F) Previously approved on September 28, 1982, in paragraph (54)(i)(C), and now deleted without replacement: R9-3-219.

* * * * *

(151) The following plan revisions were submitted on August 15, 1994 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Rule R18-2-220, Air pollution emergency episodes, Department of Environmental Quality-Air Pollution Control, amended effective September 26, 1990.

(2) A letter from Eric C. Massey, Director, Air Quality, Arizona Department of Environmental Quality, to Jared Blumenfeld, Regional Administrator, US EPA, dated August 30, 2012,

certifying that the attached copy of a document titled "Procedures for Prevention of Emergency Episodes: 1988 Edition" is a true and correct copy of the original and is an official publication of the Arizona Department of Environmental Quality.

(3) "Procedures for Prevention of Emergency Episodes," 1988 edition, Arizona Department of Environmental Quality.

[FR Doc. 2012-25022 Filed 10/12/2012 at 8:45 am; Publication Date: 10/15/2012]